

Proposed Text Amendments to St. Louis County Zoning Ordinance, Number 46 - Wetland Administration

In Minnesota, wetlands are regulated under the Minnesota Wetland Conservation Act (WCA) of 1991. MN Rule 8420 implements the regulatory provisions of WCA. Under MN Rule 8420 local government units (LGUs) are responsible for making decisions on wetland applications. St. Louis County is the LGU for areas where the county has land use authority.

The Planning and Community Development Department has undertaken efforts to streamline the wetland application process and to provide better guidance to property owners. Language in the wetland plan was not consistent with the zoning ordinance language. In addition, zoning ordinance language is redundant of what is required by statute.

The Wetland Technical Advisory Committee was established to advise the Director in the wetland plan and as a standing committee of the Planning Commission in the zoning ordinance. Although it is helpful to have agencies meet and discuss applications, it has added an extra step and time in the application process. In addition, state and federal agencies tend to defer enforcement responsibilities to the county.

Past practice has been for the Wetland Technical Advisory Committee to make decisions on applications. That decision may be appealed to the Director and the Director's decision is appealed to the Planning Commission. MN Stat. 394.27 Subd 6 states that appeals of administrative officials determinations/decisions shall be appealed to the board of adjustment.

The following zoning ordinance text amendments are proposed to streamline the wetland application process and provide clear direction on the process.

Remove Article VI, Section 11

**Amend Article VI Section numbers from 12-27 to reflect the removal of Section 11.
Remove Article IX, Section 8**

Amend Article VIII, section 1.01 as follows:

1.01 This ordinance shall be administered by the St. Louis County Planning Director, who shall provide assistance to any applicant in preparing ~~his~~ an application; advise the applicant as to the provisions of this ordinance; and shall conduct an inspection program. The planning director or designee shall review and make decisions on wetland replacement plans, banking plans, exemptions, no loss and wetland boundary and type determinations and is responsible for administering the Minnesota Wetland Conservation Act.

Amend Article VIII Section 1.03 as follows:

- C. Decisions by the Planning Director or designee on wetland replacement plans, banking plans, exemptions, no loss, boundary and type determinations are final unless appealed to the board of adjustment by written notice, within 30 days of the date on

which notification was mailed. Appeal hearings will be conducted in conformance with the standards for Variance hearings set forth in Article VIII, Section 5.

- D. Any person wishing to appeal the decision of the board of adjustment may appeal to district court in the manner described in Section ~~6.03~~ 5.03 of this article. Wetland decisions are final unless appealed to the Board Of Water and Soil Resources within 30 days of the date on which notification of the decision was mailed.

Current Language Article VI

Section 11 Wetlands

11.01 Conformance with Federal and State Wetland Standards:

All development shall conform with Federal and State Wetland regulations and it shall be the responsibility of the applicant to demonstrate conformance with the appropriate regulations.

11.02 County Board to Develop Additional Policies:

St. Louis County will develop by county board resolution policies which implement the county's responsibility in wetland regulation implementation and all applicants shall conform to said policies.

11.03 County Review of Wetland Activity: The following procedure shall be used for wetland program implementation within the county:

- A. All development must follow the sequencing standards found in State Statute and regulations. Sequencing is the process of avoiding, minimizing, or replacing wetland values lost by draining or filling.
- B. St. Louis County will not issue certificate of exemptions or no net loss exemptions unless specifically requested to do so.
- C. St. Louis County shall review all wetlands replaced within its jurisdiction except for replaced wetlands resulting from mineral mining activity.
- D. A wetlands technical advisory committee shall be established as a committee of the planning commission in accordance with the standards set forth in Article IX of this ordinance.
- E. The Wetlands Technical Advisory Committee shall have the following advisory responsibilities throughout the entire unincorporated areas of the county:
 - 1. The identification of high priority areas for wetland preservation, enhancement, restoration, and establishment. These high priority areas must be specifically identified in the Water Plan as adopted or amended by the county board.

2. Review questions of exemptions and no net loss certifications brought to it by the wetlands coordinator, particularly those relating to wetland type and size.
 3. Prepare comprehensive wetland management plan that delineates location, size, and types of wetlands for all or portions of the county. This plan shall be part of the county water plan as approved by the county board.
 4. Review and make recommendations regarding wetland replacement plans. All replacement plans shall be approved by the planning commission using the same notification and hearing standards set forth in this section.
 5. Monitor all replaced wetlands in accordance with Minnesota state regulations.
 6. Review wetland restoration plans referred to it by the Soil and Water Conservation District.
- F. The St. Louis County Planning Commission shall act upon all recommendations made by the technical advisory committee. The Commission, using the criteria set forth in State regulations and the Water Plan, may accept, reject, or modify the plan.
- G. The planning director shall serve as the contact person for the county wetlands program, including the work of the technical advisory committee.
- H. The county shall notify adjacent property owners of impacted and replaced wetlands in the following manner:
1. The adjacent property owners to impacted wetlands shall be notified.
 2. Property owners within one-quarter mile of replaced wetlands shall be notified.
 3. Notification of property owners is not required for wetlands replaced on the same parcel as the impacted wetland, or for wetlands replaced within the same minor watershed and two acres or less in surface area.
 4. Wetland banks of two acres or less may be authorized without planning commission review if the landowner obtains approval from the wetland technical committee and obtains the signatures of a majority of property owners within one-quarter mile of the “forty” the bank is located in.
- I. The review time limits outlined in the State Wetland Regulations shall be adhered to.
- J. The Technical Advisory Committee shall be the final local authority in reviewing wetlands replaced on the same parcel and replaced wetlands located within the same minor watershed that are two acres or less in size. The planning commission shall be the final local authority for all other wetland issues.

Current Language Article IX

Section 8 Planning Commission Standing Committees

The following committees are permanent standing committees of the county planning commission:

8.01 Wetlands Technical Advisory Committee: The wetland technical advisory committee is responsible for providing advice relating to the Minnesota Wetlands Conservation Act. The subcommittee shall be made up of the following positions:

- A. Representative from the North St. Louis County Soil and Water Conservation District.
- B. Representative from the South St. Louis County Soil and Water Conservation District.
- C. Representative from the Minnesota Board of Water and Soil Resources.
- D. Representative from the Minnesota Department of Natural Resources- Waters Division.
- E. County Wetlands Coordinator or designated representative.
- F. County Highway Engineer or designated representative.
- G. County Land Commissioner or designated representative.
- H. County Commissioner who serves on the Planning Commission.